

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DIRECT MARKETING CONCEPTS, INC, et
al,

Defendants

CIVIL ACTION NO. 04-CV 11136GAO

AFFIDAVIT OF MATTHEW RIBAUDO

I, Matthew Ribaudo, under oath declare as follows:

1. I am a Senior Sales Manager with Direct Marketing Concepts, Inc. and
ITV Direct, Inc. (collectively as "ITV").

2. I have read the Federal Trade Commissions ("FTC") motion to modify the
Preliminary Injunction entered on June 23, 2004 and have personal knowledge of the
facts contained herein, particularly pertaining to the sales department.

3. I have been employed by ITV since May 17, 2004. I joined ITV as a Sales
Manager, and have thus far remained in this post since being hired.

4. Prior to my employment with ITV, I worked for a Management Consultant
firm and in Retail Management. I studied Marketing and Business Management in
college.

RESPONSIBILITIES

5. My responsibilities as a Sales Manager include but are not limited to:
supervision of sales department, coaching, counseling, and training of sales department,
monitoring sales representatives phone calls, disciplining and ultimately terminating non-

compliant and insubordinate sales representative behavior, developing and writing sales scripts for infomercials, following up with sales representatives to ensure ITV policies and procedures are accurately and legally being followed, and appropriately disciplining violations of those policies and procedures.

6. For the past year, I have reported directly to Brad Tuttle, Vice President of Sales and Operations. I now report directly to Jack Freeman, newly appointed Vice President of Sales and Training.

PROCEDURE FOR APPROVING SCRIPTS/POLICIES

7. The FTC alleges: “(ITV) has continued to engage in fraudulent practices...” and “failed to clean up their business practices”.

8. As a Senior Sales Manager I spend 60-70 hours a week with my sales representatives, and I place great pride and value on the ethical side of the business.

9. I work closely with Michael Sciucco, General Counsel. Any time I write a new script (or make amendments to a current script) our policy is to send the script to Attorney Sciucco for review and to ensure legal compliance. After Attorney Sciucco makes any necessary edits, we then disperse the material to the sales floor.

10. This procedure holds true for any product information, pamphlets, brochures, etc. which the sales department uses to sell our products; as well as any tools management uses to evaluate the sales representatives.

11. We have established our sales system to follow these approved scripts along with approved scripted rebuttals and approved product power sheets.

12. We monitor our staff by following an approved phone monitoring form to ensure that our sales representatives are staying on course with our scripts, rebuttals, and approved product information.

13. If a sales representative is presenting any information or making any statements or claims to a customer that have not been previously approved by Attorney Sciucco, we immediately pull that sales representative off of the telephone and have a conversation with them regarding the importance of sticking to the scripted material.

14. Furthermore, any time we implement a new policy or procedure on the sales floor, we double-check the proposal with Attorney Sciucco and John Maihos, Vice President of Human Resources, to ensure legal compliance.

AUTO SHIPS/ CONTINUITY PROGRAMS

15. The FTC alleges that ITV has failed to ensure that their sales representatives comply with the Preliminary Injunction by providing the required disclosures to consumers before signing them up for continuity packages and has failed to ensure that their sales force provides consumers with detailed information about its continuity programs as required by the Preliminary Injunction.

16. These are erroneous statements by the FTC and could not be further from the truth.

17. It is our policy at ITV to require our sales representatives to explain, confirm, and record any transaction in which a customer is sold an auto-ship/continuity package.

18. These recordings are also known as "Contract Genie". These recordings serve several purposes. They allow us to confirm that a customer has agreed to sign up

for the continuity program if they later claim that they have not done so, and they allow us to monitor our sales force for compliance.

19. Since December 2004 we have established a Quality Control branch within our sales department to monitor and check these recordings to ensure the sales representatives are:

- a. properly recording these sales;
- b. properly explaining the continuity program to the customer; and
- c. getting a verbal confirmation from the customer consenting to the terms of

the sale.

20. In the event that our Quality Control Department discovers a recording that is not compliant to the aforementioned guidelines, we take immediate action to correct the situation, and when necessary, discipline the sales representatives.

21. We have issued written counseling to sales representatives that have not had accurate recordings with their continuity sales.

22. Furthermore, through our customer service department, we have issued refunds to customers who may have been unclear about the terms of their continuity packages. We monitor, listen, and review these recordings to consistently improve upon our sales practices.

23. As part of these training efforts, we have the sales representatives, with a sales manager, listen to their own recordings so that the sales representatives can hear for themselves what they sound like to the customer, and if necessary, make any adjustments.

24. In each sales representative's cubicle, we have posted script and recording instructions explaining the proper procedures for accurately informing customers, receiving the required verbal confirmation and recording an auto ship confirmation.

25. These instructions are also available to the sales representatives for easy access in our computer sales system.

26. In each sales script that needs a recording confirmation (i.e. auto ships) we denote that the sale must be recorded on "Contract Genie".

27. Our computer system is set up so that a sales representative cannot authorize an auto ship sale without first placing a "Contract Genie" confirmation recording number in a designated area on the sales screen. This is the number we use to retrieve and review these recordings to ensure accuracy and compliance.

28. Monitored "Contract Genie" reports are sent out to each of the Sales Managers, including myself, General Counsel (Attorney Michael Sciucco), Human Resources (John Maihos), and Customer Service (Cathy Ratcliffe) to keep all parties informed as to which sales representatives need to be/ are getting documented counseling for their confirmation recordings.

29. We reward sales representatives who have perfect recordings giving positive recognition on exactly how these sales should be recorded and completed. On average, the ITV sales force receives hundreds of calls per day. Based on my review of the Contract Genie recordings and my oversight of the sales floor, while there are always a few sales representatives that might not perfectly follow ITV's policies on each and every call, the vast majority of sales representatives comply with all policies and handle calls properly.

30. In conclusion, any allegations that the FTC is making that our sales department has been lax and non-compliant with our auto ships/continuity sales or that we have failed to "clean up" any of our business practices is completely untrue.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 7th day of June, 2005 in Beverly, Massachusetts.

Matthew J. Ribaudo
MATTHEW RIBAUDO